

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

KEVIN BAKER, et al.,)	
)	
Plaintiffs,)	
)	Case No. 3:23-cv-01331
v.)	
)	District Judge Waverly D. Crenshaw, Jr.
OWEN HARRINGTON, et al,)	Magistrate Judge Jeffery S. Frensley
)	
Defendant.)	

ORDER DENYING MOTIONS FOR DEFAULT JUDGMENT

Pending are two Motions for Default Judgment against all defendants filed by Plaintiff Kevin Baker. (Doc. Nos. 38 and 39). For the following reasons, the Motions are **DENIED**.

Plaintiff filed an Amended Complaint on April 24, 2024. (Doc. No. 14). On September 23, 2024, the Defendants filed a Motion to Dismiss the claims filed by Plaintiff Caleb Carter. (Doc. No. 25). On September 27, 2024, Defendants filed a Motion for More Definite Statement as to the claims filed by Plaintiff Kevin Baker. (Doc. No. 30). Because the plaintiffs failed to file timely responses to Defendants' Motions, the Court entered Orders to Show Cause why their claims should not be dismissed for failure to prosecute. (Doc. Nos. 35 and 36). On December 3, 2024, and again on December 12, 2024, Plaintiff Kevin Baker filed the pending Motions for Default Judgment. (Doc. Nos. 38 and 39). Defendants filed their Response in opposition on December 17, 2024. (Doc. No. 40).

"Where a defendant appears and indicates a desire to contest an action, a court may exercise its discretion to refuse to enter default . . . There is a strong public policy, supported by concepts of fundamental fairness, in favor of trial on the merits." *Higgins v. Dankiw*, No. 8:08CV15, 2008

WL 2565110, at *2 (D. Neb. June 24, 2008) (internal citations omitted). By filing their Motion for More Definite Statement as to Plaintiff Baker's claims, and filing their Response in Opposition to Plaintiff's Motions for Default Judgment, the Clerk finds that Defendants have expressed a clear intent to defend this action and are not in default. Accordingly, Plaintiff's Motions for Default Judgment (Doc. Nos. 38 and 39) are **DENIED**.

s/ Lynda M. Hill
Lynda M. Hill
Clerk of Court